

IN THE SUPREME COURT
TURKS AND CAICOS ISLANDS

BETWEEN

THE ATTORNEY GENERAL
OF THE TURKS AND CAICOS ISLANDS

Plaintiff

-AND-

URBAN DEVELOPMENT LIMITED

Defendant

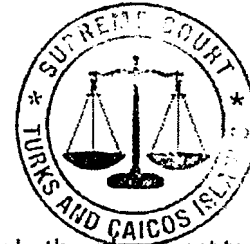
BEFORE THE CHIEF JUSTICE THE HON. M RAMSAY-HALE

Mr. Patrick Patterson for the Attorney General

Mr. Martin Green for the Defendant

The Court considered written submissions sent by email to the Registrar on behalf of the Attorney on 2 February 2016 and from the Defendant on 5 February 2016

JUDGMENT ON INTEREST
RATES




1. The Court is grateful for the further submissions by the Counsel on the issues both with respect to the period for which pre-judgment interest should be payable and the rate which the Court should apply.
2. Mr. Green notes in his written submissions that there were two letters before action, one in 2010 and another in 2013, a nearly 3 year period of unexplained delay by the Attorney General in advancing the claim. He submits that the period of interest should run from the second letter before action and not the first, but the unreasonable delay in commencing proceedings after giving notice of its intention to do so has been taken into account by the Court in holding that the interest payable between that letter the beginning of the action should be reduced by one half.
3. As to the applicable rate, Mr. Patterson submits, *inter alia*, that the Turks and Caicos Islands Government borrowed at the rate of 3.2% over the relevant period. Mr. Green submits that this bond expires this year and TCIG is now borrowing at LIBOR plus 1.2% according to a TCIG press release.¹ He asserts, and I accept, that although the relevant LIBOR rate is not specified, the industry standard is the six month rate which is currently 0.86%, implying a rate of 2.06%. He submits further that this figure implies that the bond issue at 3.2% was overpriced and that TCIG could have borrowed more economically than it did.

¹ <http://www.gov.tc/index.php/pressoffice/549-turks-and-caicos-government-signs-28m-loan-to-refinance-170m-bond>

4. He also submits that as this country has no central bank and therefore no base lending rate as such, the logical equivalent, giving our currency is the US dollar, must be that of the United States, that is to say the Federal Funds Rate of the United States Federal Reserve. He submits, and I agree, that this rate is of such general notoriety that the Court can properly take judicial notice of it. Publicly available records show that this rate was reduced to 0.25% on 16th December 2008 and raised to 0.5% on 16th December 2015. Alternatively and by analogy with the UK Commercial Rate which was cited in the Supreme Court Practice during the last hearing, which adds 1% to the Base Rate, he submits that the Court should award interest rate at the rate of 1.25% per annum in respect of the period to 16th December last and 1.5% from that date until judgment.

5. Having considered the submissions, I award pre-judgment interest at the rate of 2% from the date of the 2010 letter before action to the date of judgment, such rate to be halved from the period of the 2010 letter to the date the claim was commenced.

DATED 7TH MARCH 2016


RAMSAY-HALE
CHIEF JUSTICE

